IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 18512 of 2007(D)

PETITIONER:

K.HARIDASAN,
SECRETARY, KAVASSERI GRAMA PANCHAYAT,
PALAKKAD DISTRICT.

BY ADV. SRI.M.V.BOSE

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PANCHAYATS, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF PANCHAYATS, PALAKKAD.

4. HASSAN MOHAMMED, SECREARY, KARIMBUZHA GRAMA PANCHAYAT, PALAKKAD DISTRICT.

BY ADV. SRI.H.BADARUDDIN FOR R4
GOVERNMENT PLEADER SRI.P. NANDAKUMAR FOR R1- R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18512 of 2007

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE COPY OF ORDER DATED 1.6.2007 OF THE 2ND RESPONDENT

EXHIBIT-P2: TRUE COPY OF REPORT OF TRANSFER OF SECRETARY, KAVASSERY GRAMA PANCHAYAT, DATED 14.6.2007

EXHIBIT-P3: TRUE COPY OF RELIEVING CERTIFICATE, ISSUED BY TRIPANGATTOOR GRAMA PANCHAYAT

EXHIBIT-P4: TRUE EXTRACT OF THE ORDER OF TRANSFER DATED 13.6.2007

EXHIBIT-P5: TRUE COPY OF THE LETTER DATED 15.6.2007 FROM THE PRESIDENT KAVASSERY GRAMA PANCHAYAT

EXHIBIT-P6: TRUE COPY OF NEWS ITEM APPEARED IN MATHRUBHUMI DAILY DATED 16.6.2007

/TRUE COPY/

K.BALAKRISHNAN NAIR,J.

W.P (C) No. 18512 of 2007

Dated this the 11th day of July, 2007

J U D G M E N T

The petitioner while working as Secretary, Tripangattoor Grama Panchayat in Kannur District was transferred to Kavassery Grama Panchayat by Exhibit-P1 order dated 1.6.2007. He joined duty there as evident from Exhibit-P2. While so, the petitioner has been served with Exhibit-P4 order dated 13.6.2007 transferring him to Pudur Grama Panchayat in Palakkad District in the existing vacancy. Petitioner submits transfer under Exhibit-P4 order is vitiated by mala fides and it is made only to accommodate the 4th respondent. Further, it is submitted that Pudur is at a distance of 200 kilometers from Kavassery Grama Pancyhayat. This writ petition was filed challenging Exhibit-P4. Since the petitioner was transferred within two weeks of Exhibit-P1, this court ordered to retain him in Kavassery provided the 4th respondent did not join duty there.

2. Now the Government Pleader upon instruction submitted that the petitioner has not opted Kavassery. He opted transfer to Thenkurissi, Melarkode and Kodumpu. But the competent authority wrongly proceeded on the assumption that Kavassery is the choice station of the petitioner and Exhibit-P1

order was issued. But realising the mistake, the transfer was cancelled and instead of sending the petitioner back to Kannur, he was posted in the nearby Panchayat Pudur.

3. The 4th respondent has filed a counter affidavit stating that Kavassery is one of his choice stations. Learned Counsel appearing for the 4th respondent submitted that he has been relieved from Thrippangottoor Panchayat and in view of the interim order, he was not able to join duty at Kavassery. The Learned Counsel for the petitioner handed over the option submitted by him, which will show that Kavassery is his sixth choice station. Learned Government Pleader printed out only the first three places will be taken into account while ordering transfer.

4. The second transfer, going by the facts of the case, is made in good faith and further the claim of the petitioner that it is to a place at a distance of 200 kilometers from Kavassery is inherently improbable. Apart from that, he has been favoured with a transfer to Pudur in Palakkad district. If the present station is inconvenient to him, the petitioner may move the competent authority for a suitable posting. If any representation in this regard is filed before the 2nd respondent, the said respondent will

consider and pass orders on it, within one month from the date of receipt of a copy of this judgment. In the meantime petitioner may go and join duty at Pudur Panchayat.

The writ petition is disposed of as above.

(K.BALAKRISHNAN NAIR, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007